

09/893,803

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REMARKS

Claims 1-30 are currently pending in the subject application and are presently under consideration. A clean version of all pending claims is found at pages 2-8 of this Reply for ease of reference for the Examiner.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein. It is respectfully submitted that this rejection should be withdrawn for at least the following reasons.

I. Rejection of Claims 1-29, and 30 Under 35 U.S.C. §103(a)

Newly submitted claim 30 stands directed to an invention that is independent or distinct from the invention originally claimed. Claim 30 is respectfully requested to be directed to the elected invention for at least the following reasons.

Claim 30 directs to a data packet transmitted between two components and the information based at least upon scatterometry derived means for producing multi-sloped profiled devices. The data packets of allowable independent claim 14 and rejected independent claim 30 both relate to a system and/or method for creating a multi-sloped device utilizing scatterometry. Both data packets relate to producing (*e.g.*, fabricating) a multi-sloped semiconductor device utilizing scatterometry (*e.g.*, measuring based on the light reflected from the wafer). Applicant's representative emphasizes the distinction of claims 14 and 30 as the transmission communication (*e.g.*, claim 14 is between two or more processes, and claim 30 is between two or more components). Yet, both the components are based upon scatterometry derived means for producing multi-sloped profiled devices.

Moreover, the language of the claim utilizes the word "means" which is interpreted by the subject invention specification. Thus, claim 30 does not go beyond what was originally claimed based at least in part upon the statutory definition of the "scatterometry derived *means for producing multi-sloped profiled devices*." The limitation is within the specification and the disclosed means for producing multi-sloped profiled devices by utilizing scatterometry. Therefore, claim 30 is respectfully requested to be directed to the elected invention.

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Claims 1-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ausschnitt (US 5,629,772) in view of the acknowledged prior art of the instant specification and Coronel *et al.* (US 5,658,418). Withdrawal of the rejection is respectfully requested for at least the following reasons. Neither Ausschnitt nor Coronel *et al.* alone or in combination teach or suggest applicant's claimed invention.

The Examiner states that "it is known in the art to control an etch process using optical measurements..." However, Ausschnitt merely teaches control of an etch process using a test pattern. There are no optical measurements utilized to control the etch process directly. Rather, optical measurements are performed on a test pattern in which the test pattern is then used to control and monitor the etch process. There are no optical measurements used directly with the control of the etch process as stated by the Examiner.

In addition, Ausschnitt merely teaches a method, in which "*measurements are performed on a test pattern...*" (Col. 5, lines 13-16) (emphasis added). Additionally, Ausschnitt provides "*the monitoring and control of a product... by use of a unique test pattern...*" (Col. 8, lines 15-19) (emphasis added). In other words, Ausschnitt teaches utilizing measurements on a test pattern, which is later used for the monitoring and control of a product. Thus, there is no *monitoring and control of a product with the use of scatterometry and/or detecting the reflected light off the wafer*. Rather, Ausschnitt monitors and controls the product by use of a unique test pattern. Moreover, assuming *arguendo* that Ausschnitt monitors and controls the product with the use of scatterometry, the product in Ausschnitt is not a multi-sloped device as required by the subject invention. The rejection is respectfully requested to be withdrawn.

09/893.803F0660CONCLUSION

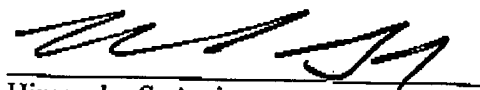
The present application is believed to be condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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